

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTHONY LEWIS,

Plaintiff,

vs.

J. ALLEN, *et al.*,

Defendants.

3:10-cv-0083-RCJ-VPC

ORDER

Plaintiff Anthony Lewis, filed a civil rights complaint and upon screening was directed to amend count three of the complaint. He has submitted a complaint which sets out a single count claiming violations of his First, Fifth and Eighth Amendment rights. This amendment is not responsive to the court's prior order and the amended complaint shall be dismissed. The court will allow the original complaint to proceed as to counts I, II, and IV as noted in the original screening order issued on August 3, 2010 (docket #21).

Plaintiff has also filed additional motions for extension of his copywork allowance (docket #34) and another motion for appointment of counsel (docket #35). These motions shall be denied as duplicative or moot. The court shall allow the Nevada Attorney General an opportunity to accept service of process on behalf of the surviving defendants. The court has previously addressed plaintiff's requests of copywork and for counsel. The circumstances have not changed. No relief on these motions is warranted at this time.

1 **IT IS THEREFORE ORDERED** that the second amended complaint (docket #31)
2 is dismissed. The action shall proceed as to the First Amended Complaint (docket #10) subject
3 to the Court's Order entered August 3, 2010 (docket #21).

4 **IT IS FURTHER ORDERED** that Count Three of the First Amended Complaint is
5 **DISMISSED WITH PREJUDICE.**

6 **IT IS FURTHER ORDERED** the plaintiff's motions (docket #34 and #35) are
7 **DENIED.**

8 **IT IS FURTHER ORDERED** as follows:

9 1. The Clerk shall electronically serve a copy of this order, including the attached
10 Notice of Intent to Proceed with Mediation form, along with a copy of plaintiff's amended
11 complaint (docket #10) and the Court's screening Order (docket #21), on the Office of the
12 Attorney General of the State of Nevada, to the attention of Pamela Sharp.

13 2. The Attorney General's Office shall advise the Court within **twenty-one (21) days**
14 of the date of entry of this order whether it can accept service of process for the named defendants.
15 As to any of the named defendants for which the Attorney General's Office cannot accept service,
16 the Office shall file, *under seal*, the last known address(es) of those defendant(s).

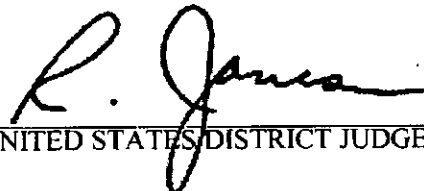
17 3. If service cannot be accepted for any of the named defendant(s), plaintiff shall file
18 a motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying a
19 full name and address for said defendant(s). Plaintiff is reminded that, pursuant to Rule 4(m) of the
20 Federal Rules of Civil Procedure, service must be accomplished within one hundred twenty (120)
21 days of the date the complaint was filed.

22 4. If the Attorney General accepts service of process for any named defendant(s),
23 such defendant(s) shall file and serve an answer or other response to the complaint within **thirty (30)**
24 **days** following the date of the early inmate mediation. If the court declines to mediate this case, an
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1 answer or other response shall be due within **thirty (30) days** following the order declining
2 mediation.

3 5. The parties **SHALL DETACH, COMPLETE AND FILE** the attached Notice of
4 Intent to Proceed with Mediation form on or before **thirty (30) days** from the date of entry of this
5 order.

6 DATED: This 20th day of October, 2010.

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10 UNITED STATES DISTRICT JUDGE
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Name

Prison Number (if applicable)

Address

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

_____	}	Case No. _____
Plaintiff,		
v.		NOTICE OF INTENT TO PROCEED WITH MEDIATION

_____	}	
Defendants.		

This case may be referred to the District of Nevada's early inmate mediation program. The purpose of this notice is to assess the suitability of this case for mediation. Mediation is a process by which the parties meet with an impartial court-appointed mediator in an effort to bring about an expedient resolution that is satisfactory to all parties.

1. Do you wish to proceed to early mediation in this case? ____ Yes ____ No
2. If no, please state the reason(s) you do not wish to proceed with mediation? _____

3. List any and all cases, including the case number, that plaintiff has filed in federal or state court in the last five years and the nature of each case. (Attach additional pages if needed).

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4. List any and all cases, including the case number, that are currently pending or any pending grievances concerning issues or claims raised in this case. (Attach additional pages if needed).

5. Are there any other comments you would like to express to the court about whether this case is suitable for mediation. You may include a brief statement as to why you believe this case is suitable for mediation. (Attach additional pages if needed).

This form shall be filed with the Clerk of the Court on or before thirty (30) days from the date of entry of this order.

Counsel for defendants: By signing this form you are certifying to the court that you have consulted with a representative of the Nevada Department of Corrections concerning participation in mediation.

Dated this ____ day of _____, 2010.

Signature

Name of person who prepared or
helped prepare this document

DATED this ____ day of July, 2010.

UNITED STATES DISTRICT JUDGE